IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

-

WRIT PETITION NO : 3986 of 1999

Between:

D.S.Ramakrishna,S/o Sri Pitchaiah,

Age:47 years, Occ.Ex-Officer, MM-II,

R/o 2-2-185/56/D/9, Somasundera Nagar,
Bagh Amberpet, Hyderabad.

..... PETITIONER

AND

1. Andhra bank, rep.by its Chairman and Managing Director,

Head Office, Dr.Pattabhi Bhavan, Saifabad, Hyderabad.

2. The Assistant General Manager-cum-Disciplinary Authority,

Andhra Bank, Head Office, Dr.Pattabhi Bhavan,Saifabad,
Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, Order or direction, more in the nature of writ of mandamus, declaring the Lr.No.666/20/V/66-2/866, dt.6-2-99, issued by 2nd respondent herein, as illegal, contrary to law and consequently direct the respondents herein to pay arrears of salary for the period 22-4-93 to 24-6-96 to the petitioner, as otherwise the petitioner will suffer grave and irreparable loss.

Counsel for the Petitioner: MR.V.HARI HARAN

Counsel for the Respondents 1 and 2: MR.NUTY RAM MOHAN RAO

The Court, made the following:

O R D E R:

This writ petition is filed seeking a mandamus declaring Lr.No.666/20/V/66-2/866 dated 06-02-1999, issued by the second respondent holding that the petitioner is not entitled to payment of full salary and allowances for the suspension period i.e., from 22-04-1993 to 24-06-1996 since he was acquitted by the appellate Court by extending benefit of doubt, as arbitrary and illegal.

This is a case where the crime arose inside employment. On the complaint made by the management against the petitioner and some others, a criminal case was registered under Sections 120(B), 381, 467, 468 read with Section 471 of IPC. Initially, they were convicted by the trial Court in C.C.No.280 of 1996. However, on filing appeal before the appellate Court, the petitioner was acquitted by extending benefit of doubt. Though the petitioner was reinstated into service, he was not paid full wages for the suspension period i.e., 22-04-1993 to 24-06-1996. Therefore, the petitioner made claim petitions before the respondents on 08-08-1998 and 12-01-1999 requesting them to pay full salary for the said period since he was acquitted by the appellate Court. The competent authority considered the matter and rejected the request of the petitioner through impugned proceedings dated 06-

02-1999 stating that he was acquitted by the appellate Court only by extending benefit of doubt. Therefore, he is not entitled to full salary and allowances for the period he was under suspension, but is entitled to subsistence allowance which was already paid to him. The said order is under challenge.

Under the Andhra Bank Officers (Discipline and Appeal) Regulations, 1939, Regulation 15 takes care of such situations. Admittedly, the case of the petitioner falls within Regulation 15(2) i.e., the cases which have to be enquired by the outside agencies. In this case it was the police who filed charge sheet. Regulation 15(3)(b) contemplates regularization of such period by the competent authority. It reads as under:

> "In a case falling under sub-section (2) the period of absence from duty shall not be treated as a period spent on duty unless the Competent Authority specifically directs for reasons to be recorded in writing, that it shall be so treated for any specific purpose."

While exercising power under the above Regulation, the competent authority has taken decision and furnished the reasons in writing. Therefore, it cannot be said the competent authority was wrong in stating that the petitioner was acquitted by the appellate Court (he was convicted by the trial Court) by extending benefit of doubt, and therefore, he is not entitled to payment of full salary for the said suspension period. The said order by the authority, which is competent to do so as per regulations of the Bank, cannot be said to be arbitrary and illegal. The same does not calls for any interference at the hands of this Court.

The writ petition is accordingly dismissed. No order as to costs.

03-12-2004.

Lrkm.

To

1. The Chairman and Managing Director, Andhra Bank,
   Head Office, Dr.Pattabhi Bhavan, Saifabad, Hyderabad.
2. The Assistant General Manager-cum-Disciplinary Authority,
   Andhra Bank, Head Office, Dr.Pattabhi Bhavan,Saifabad,
   Hyderabad.

3. Two C.D. Copies.